



ILE CONSTITUTIONAL REVIEW

VOLUME 2 AND ISSUE 1 OF 2023

INSTITUTE OF LEGAL EDUCATION



ILE Constitutional Review [ISSN - 2583-7168]

(Free Publication and Open Access Journal)

Journal's Home Page – <https://cr.iledu.in/>

Journal's Editorial Page – <https://cr.iledu.in/editorial-board/>

Volume 2 and Issue 1 (Access Full Issue on – <https://cr.iledu.in/category/volume-2-and-issue-1-of-2023/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 - info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://cr.iledu.in/terms-and-condition/>

CHILD LABOUR: THE BONDAGES OF POVERTY- A CASE COMMENTARY ON BANDHUA MUKTI MORCHA V. UNION OF INDIA & OTHERS.

Author - SANA PARVEEN, Student at Maharaja Surajmal Institute, Delhi

Best Citation - SANA PARVEEN, CHILD LABOUR: THE BONDAGES OF POVERTY- A CASE COMMENTARY ON BANDHUA MUKTI MORCHA V. UNION OF INDIA & OTHERS, *ILE CONSTITUTIONAL REVIEW*, 2 (1) of 2023, Pg. 34-37, ISSN - 2583-7168.

ABSTRACT

If a child lacks self-confidence, the nation also has no future. As children, Indian society has always been less vocal or discussed because of the country's past or socio-cultural background. Whether the work done by children is defined as child labour, depends on the age of the child, working time and type, and working conditions, but many millions of children work in violent and unequal conditions, which is clear dangerous for them. India is no exception, according to the report, India is among the best countries for the share of "child labour" in the workforce. Like others, India has changed laws to reform and end all forms of child labour since its inception as a free nation, but the reality is still very dark in nature. child labour in India is dealt with by the Child Labour Act, 1986 and the National Child Labour Project. There are more than 11.24 million children living in India today spends his childhood studying, weaving rugs, rolling, doing housework, farming and countless to other occupations instead of going to school. Child labour exists because it is the best answer people can find in unbearable conditions. Poverty and child labour reinforce each other because their parents are poor, children have to work and not go to school, and then become poor. Child labour has two important characteristics. First, when financial markets are imperfect, separating the immediate benefits of sending children to work and the long-delayed costs results in too much child labour. Second, the costs and benefits of child labour are the responsibility of different people. Child Labour

not just take away the innocence of a child but also the child's future.

KEYWORDS: Child labour, children, poverty, innocence, future.

I. INTRODUCTION

Child labour refers to the employment of children between the ages of 5 and 17 to rob them of their childhood and force them into poverty and illiteracy. The main driver of child labour is poverty; Therefore, it is more rampant in developing or underdeveloped countries. In these countries, children are often forced to work to supplement their family's daily income. The average working age of a child is fifteen years and older. Children below this age limit may not be forced to do any work. Why is that so? Because the use of child labour robs children of the opportunity for a normal childhood, proper education and physical and mental well-being. It is illegal in some countries, but it is still far from being completely eradicated.

If we want to end child labour, we need to develop very effective solutions that save our children. It will also improve the future of all countries dealing with these social problems. Initially, several trade unions can be established, whose sole purpose is to prevent the use of child labour. It should help children commit to this work and punish those who force them to do it.

In addition, family checks should be taken. This reduces the burden on the family, so if you have fewer mouths to feed, it is enough for the parents to work for the children instead of them.

In fact, the government should allow each family a minimum income to survive. In short, the government and the people must come together. People should be given many job opportunities so that they can earn a living instead of making their children work. Children are the future of our country; we cannot expect them to maintain their family's financial conditions instead of a normal childhood.

II. CASE DETAILS

CASE TITLE	Bandhua Mukti Morcha v. Union of India & Others
CASE NO	NO.6 OF 2020
COURT	The Supreme Court of India
AUTHOR OF JUDGEMENT	Justice N. Bhagwati
JUDGEMENT DATE	16/12/1983
CITATION	AIR 1984 SCC 802
JURISDICTION	IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION SUO MOTU WRIT PETITION (CIVIL) NO.6 OF 2020
QUORAM	Hon'ble Justice N. Bhagwati; Hon'ble Justice S. Pathak; Hon'ble Justice Amarnath Sen
PETITIONER	Bandhua Mukti Morcha
RESPONDENT	Union of India & Others
ACTS AND SECTIONS INVOLVED	<ul style="list-style-type: none"> • Bonded Labour System Act, 1976 • Mines Rules, 195 • Mines Vocational Training Rules, 1966 • Maternity Benefit Act, 1961 • Article 21 of the Indian Constitution • Article 23 (1) of the Indian Constitution • Article 32 of the Indian Constitution

III. INTRODUCTION AND BACKGROUND OF CASE

An organisation known as the Petitioner was committed to the freedom of bonded labourers. On the district of Faridabad, it conducted a survey on stone quarries and mines. It was discovered that many of the workers in these mines were migratory labour who were bound labourers from neighbouring Indian States. They were experiencing extreme destitution. In addition to other things, the mine owners did not give them access to shelter, safe drinking water, latrines, or medical facilities. The pollution produced by stone crushers also exposed the workers to respiratory diseases. There was also an illicit system of thekedars, or middlemen, who took a sizable portion of the workers' earnings as commission. In a letter to the court, the petitioner used Article 32 of the Constitution's jurisdiction on behalf of these workers.

IV. FACTS OF THE CASE

1. The main problem affects the vast majority of workers who have been forced to emigrate from other states and are in debt bondage. It is about the existence of debt bondage in a quarry in Faridabad near the city of Delhi. Workers faced miserable lives and inhumane conditions.
2. The petitioner, Bandhua Mukti Morcha, is an organization that aims to free people from forced labour. A survey of several quarries in the Faridabad district near the city of Delhi was carried out.
3. Based on this survey, the Applicant wrote in a letter to Judge Bhagwati on February 25, 1982 that a number of compulsory Alleged that workers were working in inhumane and intolerable conditions in the quarries and mines of Faridabad, Haryana.
4. The Supreme Court treated this letter as a written application under Article 32 of the Constitution and on February 26, 1982 appointed a committee consisting of Mr. Ashok

Srivastava and his Mr. Ashok Pandey to investigate the petitioner's allegations.

V. ISSUES INVOLVED

1. Should a letter addressed to the court be described as a petition?
2. The Supreme Court appoints a commission or investigative agency under Article 32 of the Constitution to ensure that the basic rights of workers set forth in the petition have not been violated in order to assert Article 32 of the Constitution.
3. Whether the worker in this case is a forced labourer or not
5. Are workers in this case entitled to benefits under various welfare and labour laws?

VI. ARGUMENTS INVOLVED:

Petitioner's Contentions-

The Commission confirmed the petitioner's allegations:

1. The air in the alleged quarry was so dusty that it was difficult for anyone to breathe.
2. Some workers were not assigned to leave the quarry and were forced to work
3. Clean drinking water There was no way to provide
4. Workers did not have actual homes, but instead lived in jhuggis built with stones and straw.
5. There was no compensation for workers injured in accidents on the job.
6. I didn't have the opportunity to receive treatment or education. Also, under the direction of the Supreme Court, a social justice investigation was conducted by Dr. Starring Patwardhan.

Respondent's Contentions-

1. Article 32 of the Constitution does not apply in this case, as the central rights of the complainant or the workers involved in the complaint have not been violated.

2. Letters addressed to this court by Congress cannot be treated as written appeals.

3. In proceedings under Section 32, the Court shall have no power to appoint a committee or investigative body to investigate allegations made on appeal.

4. Reports by such committees refer to unilateral declarations that have not been considered and are therefore unproven. and

5. Haryana's quarries and stone quarries may have forced labourers, but they were not fixed labourers, in the sense used in the 'abolished' forced labour system. Law, 1976.

VII. JUDGEMENT

In its judgment, the Court talked about the significance of securing children's privileges or rights to education, security, health and improvement of India as a democratic country. While perceiving that child's work couldn't be nullified quickly because of monetary need, the Court found that down to earth steps could be taken to secure and advance the rights of youth in the destitution stricken and powerless populaces of Indian culture. On the side of its decision, the Court alluded to different basic rights and order standards of the Indian Constitution including, Article 21 (the right to life and individual freedom), Article 24 (denies work of children younger than 14 in plants, mines, or different dangerous ventures), Article 39 (e) (disallows constraining residents into employments unsuited for their age or quality), Article 39(f) (depicts the State's obligations to shield youngsters from abuse and to guarantee kids the chances and offices to create in a sound way), and Article 45 (commands the State to give free obligatory training to all children beneath 14 years). The Court additionally noticed India's commitments under the Universal Declaration of Human Rights (UDHR) and the Convention on the Rights of the Child to give free essential education to all kids in the nation, and to secure children against financial abuse. The measures requested to nullify child labour work set out in a prior case,

M.C. Mehta v. Province of Tamil Nadu and Ors. were referred by the courts and merged in the application to Uttar Pradesh and Bihar. The request included directing states to find ways to create provisions for logically disposing of labour from children under the age of 14. Provide compulsory education for all young people working in processing plants, mining and other enterprises. Ensure that children receive adequate nutritional supplements. Regulates occasional health registration.

VIII. RELATED CASE LAWS

1. *M.C. Mehta v. State of Tamil Nadu and Ors.* [(1996) 6 SCC 756]

2. *National Textile Workers' Union and Others Vs. P.R. Ramakrishnan and Others*, (1983) 1 SCC 228

3. *Neerja Choudhary Vs. State of MP*

4. *People's Union for Democratic Rights Vs. UOI*

5. *Public Union for Civil Liberties v. State of Tamil Nadu and Ors.*

IX. CONCLUSION

This case, along with other PIL cases on child labour and the scale of efforts to combat child labour, has been fruitful in highlighting the issue of child labour and putting it on the administration's agenda. Politics and legislation are moving towards the formal abolition of child labour, and various activities, especially in education, are trying to eradicate cruel child labour. One effect has been a reduction in the involvement of child labour in the carpet industry. In any event, many children continue to be abused in India, and there is an urgent need for stronger and more credible child rights guarantees.

X. REFERENCES

1. Indian Legal Solution (2020) *Bandhua Mukti Morcha v Union of India*, Indian Legal Solution. Available at: <https://indianlegalsolution.com/bandhua-mukti-morcha-v-union-of-india/> (Accessed: April 30, 2023).

2. Samal, A. (2020) *Bandhua Mukti Morcha vs. Union of India & Ors.*, Law Times Journal. Available at: <http://lawtimesjournal.in/bandhua-mukti-morcha-vs-union-of-india-ors/> (Accessed: April 30, 2023).

3. LawBhoomi (2022) Case brief: *Bandhua Mukti Morcha v. Union of India and Ors.*, LawBhoomi. Available at: <https://lawbhoomi.com/case-brief-bandhua-mukti-morcha-v-union-of-india-uoi-and-ors/> (Accessed: April 30, 2023).

4. *Bandhua Mukti Morcha v. Union of India and others* (no date) Scribd. Scribd. Available at: <https://www.scribd.com/document/510744500/Bandhua-Mukti-Morcha-v-Union-of-India-and-Others> (Accessed: April 30, 2023).

5. Law Essentials (no date) *Bandhua Mukti Morcha v. Union of India*, 1984 Air 802, Law Essentials. Available at: <https://lawessential.com/case-comments-1/f/bandhua-mukti-morcha-v-union-of-india-1984-air-802> (Accessed: April 30, 2023).

6. Faculty, L. (2022) *Bandhua Mukti Morcha v. Union of India & Others* " Law Faculty, Law Faculty " law faculty. Available at: <https://lawfaculty.in/bandhua-mukti-morcha-v-union-of-india-others/?amp=1> (Accessed: April 30, 2023).

7. Kumar, A. (2022) *Bandhua Mukti Morcha vs. Union of India* Case Summary 1984 SC, Law Planet - Legal News, Law Updates & Law Exams Preparation. Available at: <https://lawplanet.in/bandhua-mukti-morcha-vs-union-of-india/> (Accessed: April 30, 2023).

8. In re problems and miseries of ... Vs Union of India & Ors. ... on 29 ... (no date). Available at: <https://indiankanoon.org/doc/139315795/> (Accessed: April 30, 2023).

9. Dinesh Labour Law Project (no date) Scribd. Scribd. Available at: <https://www.scribd.com/document/552053984/DINE-SH-LABOUR-LAW-PROJECT> (Accessed: April 30, 2023).

10. Udry, C. (2003) *Child labor*, SSRN. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=419862 (Accessed: April 30, 2023).